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August 24, 1999

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Federal Communications Commission
445 12th St. SW – TW – A325
Washington, D.C. 20554
Attn: Ms. Magalie Roman Salas, Secretary

Re: Opposition to WT Docket No. 99-217; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

This letter is written to express our opposition to the FCC's Proposed Rulemaking dated July 7, 1999, regarding forced access to multi-family buildings for telecommunications installation. Enclosed are six (6) copies of this letter, in addition to the original.

SELDIN COMPANY provides approximately 3500 apartment homes consisting of 41 apartment complexes, primarily designed for senior and disabled residents, or families with children with low and moderate incomes, in the cities of Grand Island, Norfolk, Columbus, Wahoo, Bellevue and Omaha in Nebraska; and in the cities of Muscatine, Council Bluffs, Des Moines and Harlan, in Iowa.

If enacted, the action proposed by the FCC amounts to a taking of our property without just compensation. Such action will unnecessarily and unfairly interfere with our business operations. Along with the legal problems that will arise as a result of this unprecedented government action, our residents will actually be placed at a competitive disadvantage for the purchase of their telecommunications services.

Issues Raised by the FCC Notice

We are extremely concerned by the proposed rule. In effect it gives an easement to any telecommunications provider to enter and use our property without our consent. It purports to do this in the name of consumer protection. This approach is misguided, unnecessary, and based on our past experience, may result in physical damage to our properties without any benefit to our low and moderate income residents. Our company is already doing what is needed to meet our residents' needs for access to a wide range of telecommunications services.

Because the multifamily apartment industry is extremely competitive, it is necessary that we provide adequate access to telecommunication services for our residents. To compete in the local market place, we negotiate vigorously with providers of these services. Our company has the negotiating strength to represent all of our residents. No individual can strike as good a deal as we can in this collective manner. We have incentive to meet market competition by

negotiating and providing for the availability of effective and competitive telecommunication service for our residents.

The proposed rule raises the concern in that it would expand the scope of existing easements; will interfere with existing contracts; and it may expand the satellite dish rules, which rules are already creating problems due to improper installation and architectural unsightliness of satellite dishes being installed by individuals.

We believe that additional FCC action is not necessary for the following reasons:

A. We already provide multiple service in our buildings.

- The market is working. Additional governmental regulation is not needed.

B. Access Needs to be Rigidly Controlled by the Owners

- To protect the physical integrity of the building itself as well as its appearance.
- Building owners must have control over who enters their building: owners face liability for damage to the building, and entrance to tenant's leased premises for personal injury to tenants and visitors. Owners are also liable for safety code violations. Qualifications and reliability of installers are a real issue. We have experienced damage to exterior of buildings, piercing of fire walls, etc. due to unqualified and inexperienced installers.
- The fair solution is to let the competitive market decide and allow owners to negotiate the terms of all contracts including telecommunications.

C. Scope of Easements

- The FCC should not and need not expand the scope of easements already provided.
- Expanding rights now would be a taking of private property.

D. Owners' Right to Exclusive Contracts

- By aggregating demand an owner can negotiate better deals than the individual resident can get on their own.

E. Expansion of Satellite Dish Rule

- We oppose the proposed rule because we do not believe that Congress meant to interfere with an owner's right to manage his/her property.
- The FCC should not expand the satellite rule to include data and other services, because the law only applies to antennas used to receive video programming.
- Improper installation and improper maintenance of dishes by residents creates a liability exposure to the owner.



We are opposed to the proposed rule and urge the FCC not to issue it in final form.
Thank you for consideration of our views.

Sincerely,

SELDIN COMPANY

A handwritten signature in cursive script that reads 'Theodore M. Seldin'.

Theodore M. Seldin
Chairman and CEO